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<b>TRANSMITTAL FORM</b> <i>(to be used for all correspondence after initial filing)</i>		Application Number 10/699,637
		Filing Date October 31, 2003
		First Named Inventor Daryl Smothers
		Art Unit Not Yet Assigned
		Examiner Name Not Yet Assigned
Total Number of Pages in This Submission		Attorney Docket Number 36400.04US7

<b>ENCLOSURES</b> <i>(Check all that apply)</i>		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input checked="" type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please Identify below): <b>Forms 1449A/PTO &amp; 1449B/PTO; Information Disclosure Statement and Return Postcard</b>
Remarks		

#### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Thomas C. McDonough, (Reg. No. 33,734); Neal Gerber and Eisenberg LLP
Signature	<i>Thomas C. McDonough</i>
Date	December 8, 2003

#### CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below. Washington, DC 20231 on this date:

Typed or printed name	<i>Michelle Cook</i>		
Signature	<i>Michelle Cook</i>		
	Date	12/8/03	

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Daryl Smothers )  
Serial No.: 10/699,637 ) ) Examiner: unassigned  
Filed: October 31, 2003 ) ) Group Art Unit: unassigned  
Title: Hydraulic Drive Apparatus ) ) No.: 36400.04US7

**INFORMATION DISCLOSURE STATEMENT**  
**(37 C.F.R. §1.97(b)(3))**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

With regard to the above-identified application, pursuant to 37 C.F.R. §1.56, the items of information listed on the enclosed Forms PTO/SB/08a and PTO/SB/08b are brought to the attention of the Examiner.

This statement should be considered because it is submitted, pursuant to 37 C.F.R. §1.97(b)(3), before the mailing of the first Office Action, therefore, no fee is required.

In accordance with 37 C.F.R. §1.98(d), copies of U.S. patents and foreign patents and other art listed on the enclosed forms PTO/SB/08A and PTO/SB/08B which were previously cited by or submitted to the Office with the previously filed applications, of which the current application is a continuation, are not enclosed. The previously filed application upon which the current application relies for an earlier filing date under 35 U.S.C. § 120 is:

This application is a continuation of U.S. App. No. 10/178,873 filed June 24, 2002, which is a continuation of U.S. App. No. 09/774,754, filed January 30, 2001, now U.S. Pat. No. 6,427,443, which is a continuation of U.S. App. No. 09/170,915, filed October 13, 1998, now U.S. Pat. No. 6,192,682, which is a continuation of App. No. 08/700,933, filed August 23, 1996, now U.S. Pat. No. 5,819,535, which is a continuation-in-part of U.S. App. Ser. No. 08/394,144, filed February 24, 1995, now U.S. Pat. No. 5,555,727.

In accordance with 37 C.F.R. §1.104, no representation is made that a reference is "prior art" within the meaning of 35 U.S.C. §§102 and 103 and Applicant reserves the right, pursuant to 37 C.F.R. §1.131 or otherwise, to establish that the reference(s) are not "prior art." Moreover, Applicant does not represent that a reference has been thoroughly reviewed or that any relevance of any portion of a reference is intended.

Consideration of the items listed is respectfully requested. Pursuant to the provisions of MPEP 609, it is requested that the Examiner return a copy of the attached Form PTO/SB/08a, marked as being considered and initialed by the Examiner, to the undersigned with the next official communication.

Respectfully submitted,

Date: December 8, 2003

By: Thomas C. McDonough  
Thomas C. McDonough  
Registration No. 33,734  
NEAL, GERBER & EISENBERG LLP  
2 North LaSalle Street, Suite 2200  
Chicago, Illinois 60602  
(312) 269-5282

Certificate of Mailing: The undersigned hereby certifies that this document and its enclosures are being deposited with the United States Postal Service as first class mail, postage prepaid in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 8th day of December, 2003.

By: Russelle Cook

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Institute for form 1449A/PTO

## INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(Use as many sheets as necessary)

Sheet

1

of

3

### Complete if Known

Application Number	10/699,637
Filing Date	October 31, 2003
First Named Inventor	Daryl Smothers
Art Unit	Not Yet Assigned
Examiner Name	Not Yet Assigned

Attorney Docket Number 36400.04US7

### U. S. PATENT DOCUMENTS

Examiner Initials*	Cite No. <sup>1</sup>	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code <sup>2</sup> (if known)			
		US- 2,777,286	01-1957	Badalini	
		US- 2,975,597	03-1961	Arz	
		US- 3,175,363	03-1965	Molly	
		US- 3,213,616	10-1965	Reinke	
		US- 3,279,172	10-1966	Yoshito et al	
		US- 3,360,933	01-1968	Swanson et al	
		US- 3,486,335	12-1969	Kern et al	
		US- 4,41,703	08-1977	Knapp	
		US- 4,189,921	02-1980	Knapp	
		US- 4,274,257	06-1981	Koch	
		US- 4,348,864	09-1982	Ichmura	
		US- 4,366,671	01-1983	Chichester	
		US- 4,606,428	08-1986	Giere	
		US- 4,627,237	12-1986	Hutson	
		US- 4,691,802	09-1987	Ishimori et al	
		US- 4,856,264	08-1989	Nishimura et al	
		US- 4,864,823	09-1989	Ikejiri et al	
		US- 4,905,472	03-1990	Okada	

### FOREIGN PATENT DOCUMENTS

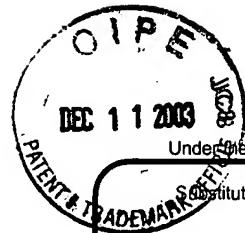
Examiner Initials*	Cite No. <sup>1</sup>	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T <sup>6</sup>
		Country Code <sup>3</sup> -Number ← Kind Code <sup>5</sup> (if known)				
		JP 410129282	05-1998	Sakigawa		
		GB 1126363	09-1968			

Examiner Signature		Date Considered
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\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. <sup>1</sup> Applicant's unique citation designation number (optional). <sup>2</sup> See Kinds Codes of USPTO Patent Documents at [www.uspto.gov](http://www.uspto.gov) or MPEP 901.04. <sup>3</sup> Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). <sup>4</sup> For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. <sup>5</sup> Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. <sup>6</sup> Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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## INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(Use as many sheets as necessary)

Sheet

2

of

3

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Application Number	10/699,637
Filing Date	October 31, 2003
First Named Inventor	Daryl Smothers
Art Unit	Not Yet Assigned
Examiner Name	Not Yet Assigned

Attorney Docket Number 36400.04US7

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		Number-Kind Code <sup>2</sup> (if known)			
		US- 4,922,717	05-1990	Furumoto et al	
		US- 4,967,555	11-1990	Maki et al	
		US- 4,986,073	01-1991	Okada	
		US- 5,031,403	07-1991	Okada	
		US- 5,058,382	10-1991	Inoue et al	
		US- 5,060,477	10-1991	Hayaski et al	
		US- 5,146,748	09-1992	Okada	
		US- 5,218,886	06-1993	Louis et al	
		US- 5,311,740	05-1994	Shiba et al	
		US- 5,317,936	06-1994	Shiba et al	
		US- 5,339,631	08-1994	Ohashi	
		US- 5,356,347	10-1994	Komura	
		US- 5,377,487	01-1995	Azuma et al	
		US- 5,819,535	10/13/1998	Smothers et al	
		US- 5,555,727	09-1996	Hauser et al	
		US- 5,557,931	09-1996	Hauser et al	
		US- 5,628,189	05-1997	Hauser et al	
		US- 5,142,940	09-1992	Hasegawa	

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		Country Code <sup>3</sup> -Number <sup>4</sup> -Kind Code <sup>5</sup> (if known)				

Examiner Signature		Date Considered
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## **INFORMATION DISCLOSURE STATEMENT BY APPLICANT**

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Sheet 3 of 3

**Complete if  $K_n$  is known**

Application Number	10/699,637
Filing Date	October 31, 2003
First Named Inventor	Daryl Smothers
Art Unit	Not Yet Assigned
Examiner Name	Not Yet Assigned
Attorney Docket Number	36400.04US7

Sheet 3 of 3

3 of 3

Examiner Name \_\_\_\_\_

10/699.637

October 31, 2003

**First Named Inventor**

Daryl Smothers

## Part Unit

Net Yet Assigned

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**Attorney Docket**

136400.04057

## U. S. PATENT DOCUMENTS

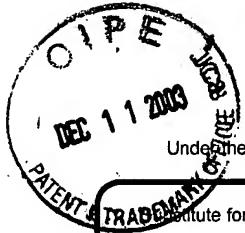
## FOREIGN PATENT DOCUMENTS

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		Country Code <sup>3</sup> —Number <sup>4</sup> —Kind Code <sup>5</sup> (if known)				

Examiner Signature \_\_\_\_\_ Date Considered \_\_\_\_\_

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## **INFORMATION DISCLOSURE STATEMENT BY APPLICANT**

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Sheet

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9

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*Complete if Known*

<i>Application Number</i>	10/699,637
<i>Filing Date</i>	October 31, 2003
<i>First Named Inventor</i>	Daryl Smothers
<i>Art Unit</i>	Not Yet Assigned
<i>Examiner Name</i>	Not Yet Assigned
<i>Attorney Docket Number</i>	36400.04US7

#### NON PATENT LITERATURE DOCUMENTS

Examiner Signature		Date Considered	
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